

MAR 26 2009

PTO/SB/26 (02-09)

Approved for use through 03/31/2009. OMB 0651-0031.
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

NY-LUD 5253-US5-DIV

In re Application of: Thierry Boon-Falleur et al.

Application No.: 08/819,669-Conf. #1995

Filed: March 17, 1997

For: TUMOR REJECTION, ANTIGEN PRECURSORS, TUMOR REJECTION ANTIGEN S AND
USES THEREOF

The owner, LUDWIG INSTITUTE FOR CANCER RESEARCH, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 5,843,448 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

Further, the owner waives the right to separately enforce any patent granted on application 08/819,669 or any patent subject to re-examination proceedings, as well as U.S. Patent No. 5,843,448. The owner further states that any patent granted on application 09/819,669 or any patent subject to re-examination proceedings, shall be enforceable only for and during such period that the patent and U.S. Patent No. 5,843,448 are not separately owned.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

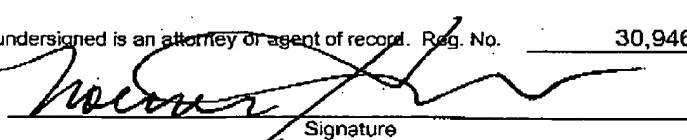
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 30,946


Signature

3/26/09
Date

Norman D. Hanson
Typed or printed name

(212) 318-3168
Telephone Number

- ☒ Charge Terminal disclaimer fee under 37 CFR 1.20(d) to Credit Card. PTO Form 2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

50164201.1